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October 28, 1999

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Hon. Magalie Roman Salas
Secretary
Federal Communications Commission
The Portals
445 Twelfth Street, S.W.
Room TW - A 325
Washington, DC 20554

RE: Notice of Propose Rulemaking in the Matter of Access Charge Reform, CC Docket No. 96-262, Price Cap Performance Review for Local Exchange Carriers, CC Docket No. 94-1; Interexchange Carrier Purchases of Switched Access Services Offered by Competitive Local Exchange Carriers, CCB/CPD File No. 98-63; Petition of US West Communications, Inc. for Forbearance from Regulation as a Dominant Carrier in the Phoenix, Arizona MSA, CC Docket No. 98-157.

Dear Secretary Salas:

The New York State Department of Public Service ("NYDPS") submits this letter in lieu of comments in response to the Federal Communications Commission's ("Commission") Notice of Proposed Rulemaking ("Notice") released August 27, 1999, which invited comments in the above-captioned matters. The Commission's proposal would phase-in greater pricing flexibility for price cap Local Exchange Carriers ("price cap LECs") upon a showing that competition has developed in particular access markets.

The NYDPS supports the Commission's efforts to implement a competitive, market-based approach to interstate access charge reform since economic theory suggests that the current access charge structure is inefficient relative to what would exist in a competitive market. The framework proposed by the Commission addresses this concern by allowing the rate structure to evolve as competition in the exchange access market develops.

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On the need for a "regulatory backstop to constrain [Competitive Local Exchange Carrier] CLEC access rates" (Para. 247), we would prefer to allow market forces to constrain carriers' pricing. However, a CLEC which terminates a call to an end user enjoys a situational monopoly with respect to charges for terminating calls. Therefore, in establishing the regulatory framework for local competition in New York,¹ the New York Public Service Commission has concluded that CLEC access charges at or below the incumbent's charges would be presumptively acceptable. Any access charges that are higher than the incumbent's charges would require CLEC cost justification. The NYDPS recommends this solution to the Commission as a minimally intrusive means of constraining a CLEC's situational monopoly.

Sincerely,



Lawrence G. Malone
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cc: Service List

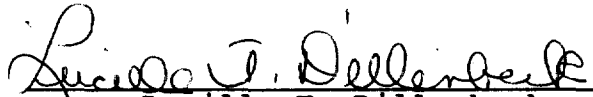
1 Case 94-C-0095, Order Instituting Framework for Directory Listings, Carrier Interconnection and Inter-carrier Compensation, Issued and effective September 27, 1995, p. 16.

In the Matter of

RE: Notice of Propose Rulemaking in the Matter of Access Charge Reform, CC Docket No. 96-262; Price Cap Performance Review for Local Exchange Carriers, CC Docket No. 94-1; Interexchange Carrier Purchases of Switched Access Services Offered by Competitive Local Exchange Carriers, CCB/CPD File No. 98-63; Petition of US West Communications, Inc. for Forbearance from Regulation as a Dominant Carrier in the Phoenix, Arizona MSA, CC Docket No. 98-157.

CERTIFICATE OF SERVICE

I, Lucille T. Dillenbeck, hereby certify that an original and four (4) copies of the letter in lieu of comments in the above-captioned proceeding were sent via Airborne Express to Magalie Roman Salas, Secretary of the Federal Communications Commission. In addition, a copy was filed using the Commission's Electronic Filing System and copies were sent by First Class Mail, postage prepaid, to all parties on the attached service list.


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